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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,551	02/04/2004	Warren R. Wilkins	14760	5496

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SHELDON & MAK, INC
225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA, CA 91101

EXAMINER

WELCH, GARY L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TAL

Office Action Summary	Application No. 10/772,551	Applicant(s) WILKINS, WARREN R.	
	Examiner Gary L. Welch	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment, filed 9 June 2005, has been reviewed and considered. Claims 1-14 are canceled and claims 20-32 are added. Therefore, claims 15-32 are currently pending. In view of applicant's arguments and amendments, the previous rejections raised in the first Office Action are withdrawn. However, an updated search and further review of the prior art of record has prompted the presentation of the following rejections.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15 and 17-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Loewer et al. (U.S. 6,256,788).

Loewer et al. discloses a disposable bib 10 having a base layer of soft absorbent paper material. The base layer has a pair of opposed sides (20; Col. 2, lines 44-47) defining a base layer area. A pouch layer 30 of soft absorbent paper material (Col. 2, lines 55-59; Col. 3, lines 5-9) is attached to the base layer so as to define a pouch enclosure with a single pouch opening. The pouch layer 30 has a pair of opposed sides, which define a pouch layer area that is less than that of the base layer area (Figure 1a). The claimed range (i.e., about 9 square inches and about

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576 square inches) for the base layer is inherent in bibs. The bib of Loewer et al. discloses all claimed structural limitations. The bib can be folded like a handkerchief, can be placed in a pocket like a handkerchief and can capture solid and liquid particulates whether they are dropped, spilled, coughed or sneezed. Therefore, the bib of Loewer et al. is a handkerchief.

With regard to claim 18, the base layer and pouch layer are fabricated from cellulose pulp.

With regard to claim 19, the invention is substantially disclosed in one or more of the above rejections. The pouch layer has a different thickness than the base layer since the lower portion can be folded over upon itself to create a pouch. Therefore, the cross-sectional thickness of the pouch layer is different the base layer.

With regard to claim 15, the pouch layer is thicker than the base layer.

With regard to claim 20, the method steps of catching and retaining solid or liquid particles are disclosed in one or more of the above rejected apparatus claims.

With regard to claims 21-32, the claims depend from independent claim 20, which is a method of catching and retaining liquid and solid particles. The claims do not contain any method steps that further limit claim 20.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loewer et al. (U.S. 6,256,788).

Loewer et al. discloses the invention substantially as claimed above.

However, Loewer et al. does not disclose that the pouch layer is thinner than the base layer.

A careful review of applicant's disclosure does not reveal any criticality of the claimed limitation (i.e., why is a thinner pouch layer better than a thicker pouch layer?). The only instance where a thinner pouch layer is disclosed is on page 4, lines 15-21. This section of the specification states that the thickness of the pouch layer 14 is less than the thickness of the base layer 12, so that the base layer 12 is considered to be "padded". Therefore, it would have been an obvious design choice to provide a thinner pouch in lieu of a thick pouch while still maintaining the intended function of the device.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Patterson et al. '716, Van Gompel et al. '303, Surprise et al. '365 and Herzberg '970 disclose various articles of apparel having an opening therein which can perform and fulfill the function of a handkerchief.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

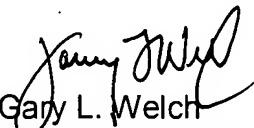
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (571) 272-4996. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary L. Welch
Primary Examiner
Art Unit 3765

glw